

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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FREDDIE PIERRELOUIS, a minor under 14
years of age by his father and natural guardian
EDDY PIERRELOUIS,
and EDDY PIERRELOUIS, Individually,

Civil Action No. 08-cv-0123 (SCR)

Plaintiffs,

ANSWER

v.

ESTHER BEKRISKY, M.D., GERSON GLUCK, M.D.,
GAVIN JOFFE, M.D., ERIC SILVA, M.D.,
"JOHN" SILVERBERG, M.D. (first name being fictitious
And unknown), FE MURPHY, M.D.,
MONSEY FAMILY MEDICAL CENTER, and
GOOD SAMARITAN HOSPITAL MEDICAL CENTER,

TRIAL BY JURY DEMANDED

Defendants.
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Defendant, GERSON GLUCK, M.D., by his undersigned attorneys, GERSPACH
SIKOSCOW LLP, hereby Answers the Plaintiffs' Complaint as follows:

THE PARTIES

1. Defendant, GERSON GLUCK, M.D., hereby denies paragraphs numbered 1, 2,
4, 5, 6, 7, 8, 9, 10 and 11 of Plaintiffs' Complaint due to a lack of knowledge and information
sufficient to respond.

2. Defendant, GERSON GLUCK, M.D., hereby admits paragraph number 3 of
Plaintiffs' Complaint.

AS AND FOR THE FIRST CAUSE OF ACTION: MEDICAL MALPRACTICE

3. Defendant, GERSON GLUCK, M.D., repeats and reiterates his responses to
paragraphs numbered 1 through 11 in response to paragraph number 12 of Plaintiffs'
Complaint.

4. Defendant, GERSON GLUCK, M.D., hereby denies paragraph number 13 of Plaintiffs' Complaint due to a lack of knowledge and information sufficient to respond, except admits that at a certain time(s) not specified in the Complaint, he provided services to Freddie Pierrelouis and at all times acted in accordance with accepted standards of care.

5. Defendant, GERSON GLUCK, M.D., hereby denies paragraphs numbered 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, and 82 of Plaintiffs' Complaint due to a lack of knowledge and information sufficient to respond.

6. Defendant, GERSON GLUCK, M.D., hereby denies paragraph number 24 of Plaintiffs' Complaint in the form alleged.

7. Defendant, GERSON GLUCK, M.D., hereby denies paragraph number 25 of Plaintiffs' Complaint in the form alleged, except admits that he is a Board Certified Pediatrician.

8. Defendant, GERSON GLUCK, M.D., hereby denies paragraph number 26 of Plaintiffs' Complaint in the form alleged.

9. Defendant, GERSON GLUCK, M.D., hereby denies paragraph number 27 of Plaintiffs' Complaint in the form alleged.

10. Defendant, GERSON GLUCK, M.D., hereby denies paragraph number 28 of Plaintiffs' Complaint in the form alleged.

11. Defendant, GERSON GLUCK, M.D., hereby denies paragraphs numbered 29, 30, 31, 32, and 33 of Plaintiffs' Complaint in the form alleged, except admits that at a certain time(s) not specified in the Complaint, he provided services to Freddie Pierrelouis and at all times acted in accordance with accepted standards of care.

12. Defendant, GERSON GLUCK, M.D., hereby denies paragraphs numbered 83, 84, 85, 86, 87, 88, and 89 of Plaintiffs' Complaint in the form alleged due to a lack of knowledge and information sufficient to respond.

**AS AND FOR THE SECOND CAUSE OF ACTION:
LACK OF INFORMED CONSENT**

13. Defendant, GERSON GLUCK, M.D., repeats and reiterates his responses to paragraphs numbered 1 through 89 in response to paragraph number 90 of Plaintiffs' Complaint.

14. Defendant, GERSON GLUCK, M.D., hereby denies paragraphs numbered 91, 92, 93, 94, 95, 96, and 97 of Plaintiffs' Complaint in the form alleged due to a lack of knowledge and information sufficient to respond, except expressly denies that he failed to inform Plaintiffs of any risks, hazards and alternatives to the medical care rendered to Freddie Pierrelouis as required by accepted standards of care.

15. Defendant, GERSON GLUCK, M.D., hereby denies paragraph number 98 of Plaintiffs' Complaint due to a lack of knowledge and information sufficient to respond.

**AS AND FOR THE THIRD CAUSE OF ACTION:
ON BEHALF OF THE FATHER**

16. Defendant, GERSON GLUCK, M.D., repeats and reiterates his responses to paragraphs numbered 1 through 98 in response to paragraph number 99 of Plaintiffs' Complaint.

17. Defendant, GERSON GLUCK, M.D., hereby denies paragraphs numbered 100, 101, and 102 of Plaintiffs' Complaint due to a lack of knowledge and information sufficient to respond.

**AS AND FOR THE FOURTH CAUSE OF ACTION:
VICARIOUS LIABILITY**

18. Defendant, GERSON GLUCK, M.D., repeats and reiterates his responses to paragraphs numbered 1 through 102 in response to paragraph number 103 of Plaintiffs' Complaint.

19. Defendant, GERSON GLUCK, M.D., hereby denies paragraphs numbered 104, 105, 106 and 107 of Plaintiffs' Complaint due to a lack of knowledge and information sufficient to respond.

AS AND FOR A FIRST AFFIRMATIVE DEFENSE

20. Plaintiffs' claims are barred by the applicable statute of limitations.

AS AND FOR A SECOND AFFIRMATIVE DEFENSE

21. The answering Defendant invokes the protection of Public Health Law § 2805(d)(4) with respect to the alleged cause of action for informed consent, and reserves all rights pursuant thereto.

AS AND FOR A THIRD AFFIRMATIVE DEFENSE

22. The answering Defendant claims the protections, benefits and limitations on liability as set for in Article 16 of the New York State Civil Practice Law and Rules.

AS AND FOR A FOURTH AFFIRMATIVE DEFENSE

23. The answering Defendant claims the protections, benefits and limitation on liability as set forth in Article 14 of the New York State Civil Practice Law and Rules.

AS AND FOR A FIFTH AFFIRMATIVE DEFENSE

24. The answering Defendant claims the protections, benefits and limitation on liability as set forth in Article 4545 of the New York State Civil Practice Law and Rules.

AS AND FOR A SIXTH AFFIRMATIVE DEFENSE

25. This Court lacks subject matter jurisdiction over this lawsuit.

AS AND FOR A SEVENTH AFFIRMATIVE DEFENSE

26. Any injuries sustained by the Plaintiffs' were caused in whole or in part by their own culpable conduct or by others for whom the answering Defendant has no legal responsibility.

WHEREFORE, defendant, GERSON GLUCK, M.D., demands judgment dismissing the Complaint herein, together with the costs and disbursements of this action.

Dated: New York, New York
February 26, 2008

Yours, etc.

GERSPACH SIKOSCOW LLP

BY: /s/
Alexander Sikoscow (AS 4076)
Attorneys for Defendant
GERSON GLUCK, M.D.
59 Maiden Lane, 39th Floor
New York, New York 10038
(212) 545-4095